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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,691	11/13/2003	Francesco Basile	Serie 6053	9103

7590
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01/11/2007

EXAMINER

NGUYEN, CAM N

ART UNIT

PAPER NUMBER

1754

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/11/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/712,691

Applicant(s)

BASILE ET AL.

Examiner

Cam N. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/25/06 (an amendment/response).
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on originally filed is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>10/25/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Applicants' amendments and remarks, filed on October 25, 2006, have been made of record and entered. Claims 1-14 have been canceled. Claims 18, 22-23, 30-34, 39, 43-44, & 48-50 have been amended.

Claims 15-56 are currently pending in this application.

Claim Rejections - 35 USC § 102(e)

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 15-56 are rejected under 35 U.S.C. 102(e) as being anticipated by Krumpelt et al., "hereinafter Krumpelt", (PG-Pub No. 2004/0204315 A1).

Krumpelt discloses a catalyst composition comprising: a perovskite structure having the formula selected from the group consisting of $(A_{1-x}A_x')(B_{1-y}B_y')O_{3\pm e}$; and a Ruddlesden Popper structure having the formula $(A_{1-z}A_z'O)(A_{1-x}A_x'B_{1-y}B_y'O_{3\pm e})_n$; wherein A is selected from the group consisting of La, Y, Pr, Gd; A' is selected from the group consisting of Na, K, Ca, Sr, Ba, Ag, and Ce; B is selected from the group consisting of Ni, Co, Cu, Zn, Fe, Ga, Al, Cr, Mn, Ti, V, Mo, W, Zr, Nb, and Sn; B' is selected from the group consisting of Ru, Rh;

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and x is about 0 to about 1, y is about 0 to about 0.5; and z is about 0 to about 0.5 (see page 8, claim 1). See also page 8, claims 2-24, & Examples in the reference for more details regarding process of preparing the catalyst.

No patentable distinction is seen between the claimed catalyst composition and that disclosed by Krumpelt. Thus, the claims are anticipated by the teaching of the reference.

Response to Applicants' Arguments

4. Applicants' response filed on October 25, 2006 has been fully considered, but not deemed persuasive because of the following reasons.

Applicants urged, that "the Krumpelt et al. (PG-Pub No. 2004/0204315 A1) is not available as a prior art due to its earliest effective filing date of April 25, 2003, which is after the earliest effective date of the instant application" is noted. This is not found persuasive because the earliest effective date of the Krumpelt et al. (PG-Pub No. 2004/0204315 A1) is April 30, 2002, which is the filing date of the provisional application No. 60/376,491. This date is about seven months prior to the earliest effective filing date of the instant application, which is November 15, 2002. It is considered this reference is still applicable as a prior art under a 102(e) in view of its earliest effective date of the reference. Thus, the rejection is maintained.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

6. Claims 15-56 are pending. Claims 15-56 are rejected. No claims are allowed.

Contacts

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Primary Examiner Cam N Nguyen, whose telephone number is 571-272-1357. The examiner can normally be reached on M-F, 9:00 AM - 6:30 PM, at alternative work site.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman, can be reached on 571-272-1358. The fax phone number for the organization where this application or proceeding is assigned is 571-272-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Cam N. Nguyen/

Nguyen/cnn

Primary Examiner

December 29, 2006

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